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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE TFT-LCD (FLAT PANEL)
ANTITRUST LITIGATION

Case No. M07-1827 SI

MDL No. 1827

This Document Relates to:

ALL DIRECT PURCHASER ACTIONS

~~[PROPOSED]~~ ORDER RE DEPONENTS
ASSERTING THE FIFTH AMENDMENT
PRIVILEGE AGAINST SELF
INCRIMINATION

The Honorable Susan Illston

The Court has considered the submissions of the parties and the arguments of counsel at a hearing held November 3, 2009 concerning a protocol for witnesses who invoke their Fifth Amendment right not to testify, but later decide to revoke their assertion and testify. Good cause having been shown, the Court hereby enters the following order:

Any person who at deposition asserts his or her right under the Fifth Amendment of the United States Constitution not to testify will be bound by that assertion of the privilege and shall not be permitted to testify otherwise at trial unless, not later than 75 days prior to the date set for the close of fact discovery, notice is provided in writing of the intent to revoke the assertion of privilege and the willingness of the person to testify. Upon notice, the revoking deponents will make themselves available for deposition at their expense in San Francisco, California not later

1 than 45 days prior to the close of fact discovery. A revocation within the terms of this order does
2 not guarantee the witness's right to testify, if plaintiffs make a sufficient showing of prejudice.

3 Nothing in this Order in any way impairs or forecloses plaintiffs' right to seek any relief
4 otherwise permitted by law, including but not limited to an adverse inference instruction based on
5 a deponent's assertion of his or her Fifth Amendment right against self-incrimination.

6 IT IS SO ORDERED.

7
8 Dated: Apr. 9, 2009


HON. FERN M. SMITH (RET.)
SPECIAL MASTER

11 **[PROPOSED] ORDER**

12 Good cause appearing, the Court hereby adopts the Special Master's Order.

13
14 Dated: 11/13/09, 2009


HON. SUSAN ILLSTON
UNITED STATES DISTRICT COURT